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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/257,917	02/26/1999	KIYOKI SEKINE	RYU109	3168

23995 7590 10/02/2002

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EXAMINER

STEVENS, ROBERTA A

ART UNIT PAPER NUMBER

2665

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/257,917

Applicant(s)

SEKINE, KIYOKI

Examiner

Roberta A Stevens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2-4 recites the limitation "the gain controller". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-3, 5-6, 9, 14-18, 20 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Egusa (U.S. 6118983).

Regarding claims 1-3, Egusa teaches (figure 2) a communication station for transmitting

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first data and second data, comprising an encoder (71) for coding the first data and second data; a multiplexer (79) for multiplexing the coded first data and the coded second data; a transmitter (78) for transmitting the first data and the second data that multiplexed with each other to another communication station, the first data and the second data being transmitted at a first transmission power level and a second transmission power level, respectively; and a transmission power controller (76) for receiving transmission power control information from the other communication station and for controlling the first transmission power level and the second transmission power level independently of each other.

Regarding claims 5-6 and 9, Egusa teaches (figure 2) a communication station for receiving first data and second data transmitted from another communication station, the first data and the second data being transmitted at a first transmission power level and a second power level, respectively, comprising: a receiver (82) for receiving the first data and second data; a processor for decoding (89) the first data and the second data; a control information generator for generating transmission power control (83) information based on the first data and second data received by the receiver, the transmission power information causing to control the first transmission power level and the second transmission power level independently of each other; and a transmitter (82) for transmitting the transmission power control information to the other communication station.

Claims 14-18, 20 and 23 are a combination of claims 1-3 and 5-6, therefore the above rejections apply.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 4, 7, 8, 10-13, 19, 21, 22 and 24-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egusa.

As mentioned above, Egusa teaches all of the limitations of claim 1.

Regarding claim 4, 19 and 34, Egusa does not teach specific values of the gain, however These limitations would have been to one of obvious skill in this art as a matter of design choice.

Regarding claims 7, 8, 21, 22, 36 and 37, Egusa does not teach representing the first and second data by a frame error rate or a signal-to-noise ratio, however these rates are well known in the art an it would have been obvious to one of ordinary skill in this art to adapt to Egusa's system as a matter of design choice.

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Regarding claims 10-13, 24-27 and 40-42, the transmission of data methods and intervals mentioned would have been obvious to one of ordinary skill in this art to adapt to Egusa as a matter of design choice.

Claims 28-33, 35-39 and 43-44 recite the same method as 1-27, taught by Egusa as above-mentioned. Third and fourth data is inherent in Egusa's system since Egusa's system has 1-n transceivers transmitting and receiving a plurality of data at a plurality of power levels.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Douzono (U.S. 5574983), Raith (U.S. 5930706) and Blakeney (U.S. 5818870) are cited to show the state of the art.

9. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

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Washington, D.C. 20231

or faxed to:

(703) 872-9314

For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens

Patent Examiner

09-30-02\



ALPUS H. HSU
PRIMARY EXAMINER